



Under the Paperwork Reduction Project of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

076326-0312

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

On March 5, 2009

Signature

Typed or printed name

Application Number

10/552,973

Filed

8/26/2004

First Named Inventor

Ingo KALLISKE

Art Unit

3616

Examiner

Barry J. GOODEN, Jr.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)☒ attorney or agent of record.

Registration number 39,370

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

Signature

Howard N. Shipley  
Typed or Printed Name(202) 672-5582  
Telephone NumberMarch 5, 2009  
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☒ \*Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



Atty. Dkt. No. 076326-0312

***IN THE UNITED STATES PATENT AND TRADEMARK OFFICE***

Applicant: Ingo KALLISKE et al.  
Title: MOTOR VEHICLE SAFETY DEVICE FOR  
PROTECTING PEDESTRIAN AND CYCLISTS  
Appl. No.: 10/552,973  
International Filing Date: 8/26/2004  
371(c) Date: 11/29/2005  
Examiner: Barry J. GOODEN, Jr.  
Art Unit: 3616  
Confirmation Number: 1628

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In accordance with the New **Pre-Appeal Brief Conference Pilot Program**, announced July 11, 2005, this Pre-Appeal Brief Request is being filed together with a Notice of Appeal.

**REMARKS**

For the sake of brevity, this pre-appeal brief only addresses claims 20, 33 and 51. However, Applicants consider each pending dependent claim to be allowable with its respective independent claim for at least the reasons set forth below without regard to the further patentable limitations contained in these claims.

Applicants would consider cancelling claims 40-45, 49 and 50 without prejudice if one or more of the claims 20, 33 and 51 were considered to be in condition for allowance. Therefore, for the sake of brevity and efficiency, this pre-appeal brief does not address the

rejection of claims 40-44 and 46-50. However, Applicants continue to maintain that claim 40 is allowable for the reasons set forth on page 11 of Amendment and Reply filed on February 5, 2009.

### Claim 33

Claim 33 is rejected under 35 U.S.C. 112, first paragraph, because the Examiner contends that “a transparent woven fabric insert” acting as a reinforcement mechanism does not appear to be supported and is not sufficiently described in the specification in such a way so as to be enabling.

The rejection should be withdrawn because the “transparent woven fabric insert” feature of claim 33 is clearly supported in the specification. For example, the original specification discloses the use of transparent woven fabric layers or inserts at page 6a, line 1 to page 7, line 2 and Fig. 4. Also, one of ordinary skill in the art would be able to make the transparent woven fabric with a basic knowledge of well known suitable materials (such as Nylon 66) and without undue experimentation. (See e.g., U.S. Patent Nos. 5,112,081 and 5,222,932, which discloses the use of transparent woven fabrics for restraint and airbag systems).

Reconsideration and withdrawal of the rejection of Claim 33 is respectfully requested.

### Claim 51

Claim 51 is rejected under 35 U.S.C. 102(b) as being anticipated by JP 2000-264146 (“Naoyuki”). This rejection should be withdrawn because Naoyuki does not disclose or suggest the claimed invention.

For example, Naoyuki fails to disclose, teach or suggest an airbag having tucks which divide the airbag between a part and chambers in which openings are formed between the part and the chambers. The Examiner contends that the upper cushion portion of Naoyuki corresponds to be considered to the “part” of claim 51 while the lateral and lower cushion portions of Naoyuki correspond to the “chambers” of claim 51. (Page 4 of the Office Action.) However, Naoyuki does not teach the use of tucks to divide the upper cushion portion from the lateral and lower cushion portions. Indeed, Figs. 4 and 10 of Naoyuki, which are cited in

the Office Action as support for the Examiner's position, do not show any tucks. Naoyuki clearly does not disclose, teach or suggest tucks which divide the airbag between a part and chambers in which openings are formed between the part and the chambers. Thus, the rejection should be withdrawn.

Reconsideration and withdrawal of the rejection of claim 51 is respectfully requested.

Claim 20

Claims 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Naoyuki in view of EP 1350692 ("Takimoto"). The rejection should be withdrawn because no combination of Naoyuki and Takimoto discloses, teaches or suggests the claimed invention.

For example, no combination of Naoyuki and Takimoto discloses, teaches or suggests an airbag that is configured to be arranged under a hingedly connected hood of the vehicle; and a gas generator connected to the airbag. During inflation, the airbag is configured to lift at least a portion of the hood such that a section of the airbag can thereafter unfold onto an A-pillar and a lower portion of a windshield of the vehicle. When unfolded, the airbag is configured to include a chamber located below the hood in the vicinity of one of the hinges of the hood, and a lateral end of the airbag, which is configured to cover the A-pillar, points upward. The airbag section, which is configured to unfold onto the A-pillar, is fixed by a restraining member to prevent lateral displacement. The restraining member includes a pair of intercepting straps or tube-like airbags. The straps or tube-like airbags cross in a central portion of the vehicle.

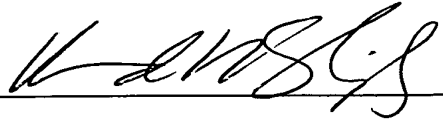
The Examiner concedes that Naoyuki does not teach intercepting straps that cross in a central portion of the vehicle. (Page 6 of the Office Action.) Takimoto does not cure this deficiency. Fig. 6 of Takimoto teaches connecting members 13C and 13C', but these connecting members of Takimoto do not cross in a central portion of the vehicle as required by claim 20. Thus, it is clear that neither Naoyuki nor Takimoto teach or suggest a pair of intercepting straps or tube-like airbags that cross in a central portion of the vehicle. As a result, the rejection should be withdrawn.

Reconsideration and withdrawal of the rejection of claim 20 is respectfully requested.

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance.

Respectfully submitted,

Date March 5, 2009

By 

FOLEY & LARDNER LLP  
Customer Number: 22428  
Telephone: (202) 672-5582  
Facsimile: (202) 672-5399

Howard N. Shipley  
Attorney for Applicant  
Registration No. 39,370